
To: PENNINGTON SEED, INC. (atltrademarks@wcsr.com)
Subject: TRADEMARK APPLICATION NO. 76535843 - REBEL - P004
Sent: 12/18/2007 9:58:41 PM
Sent As: ECOM103@USPTO.GOV
Attachments:

**UNITED STATES PATENT AND TRADEMARK OFFICE****SERIAL NO:** 76/535843**MARK:** REBEL**CORRESPONDENT ADDRESS:**

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P. O. Box 7037, Atlanta, GA 30357-0037
1201 West Peachtree Street, Suite 3500
Atlanta GA 30309

**RESPOND TO THIS ACTION:**<http://www.uspto.gov/teas/eTEASpageD.htm>**GENERAL TRADEMARK INFORMATION:**<http://www.uspto.gov/main/trademarks.htm>**APPLICANT:** PENNINGTON SEED, INC.**CORRESPONDENT'S
REFERENCE/DOCKET NO:**

P004

CORRESPONDENT E-MAIL ADDRESS:

atltrademarks@wcsr.com

REQUEST FOR RECONSIDERATION GRANTED**ISSUE/MAILING DATE: 12/18/2007**

Applicant is requesting reconsideration of a final refusal issued/mailed August 2, 2004.

The applicant's request for reconsideration does not raise any new issues but is a good faith, although incomplete, attempt to comply with all outstanding requirements or refusals. TMEP §715.03(a). Accordingly, applicant's request for reconsideration is *granted*. The response is incomplete because the applicant has failed either to include a proper claim of acquired distinctiveness with its disclaimer, or to amend to the Supplemental Register.

If the applicant chooses to do so by using the statutory suggestion of five years of use as proof of distinctiveness, the applicant should submit a claim of distinctiveness that reads as follows, if accurate.

The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement.

The applicant must provide this statement supported by an affidavit or a declaration under 37 C.F.R. §2.20. 37 C.F.R. §2.41(b); TMEP §1212.05(d).

The following is a properly worded declaration under 37 C.F.R. Section 2.20.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

(Signature)

(Print or Type Name and Position)

(Date)

The applicant has 30 days, or until the end of the six months from the final action, whichever is longer, to comply with the outstanding requirements or refusals. 37 C.F.R. §2.65(b). If the applicant fails to comply with the noted requirement of a proper claim of acquired distinctiveness, or does not amend to the Supplemental Register, or fails to respond, the application file will be returned to the Trademark Trial and Appeal Board for resumption of the appeal.

/Ronald E. Aikens/
Trademark Attorney, Law Office 103
US Patent and Trademark Office
(571) 272-9268 (d)
(571) 273-9268 (fax not for responses)

RESPOND TO THIS ACTION: If there are any questions about the Office action, please contact the assigned examining attorney. A response to this Office action should be filed using the form available at <http://www.uspto.gov/teas/eTEASpageD.htm>. If notification of this Office action was received via e-mail, no response using this form may be filed for 72 hours after receipt of the notification. **Do not attempt to respond by e-mail as the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person

signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 12/18/2007 FOR
APPLICATION SERIAL NO. 76535843

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link http://tportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=76535843&doc_type=REC&mail_date=20071218 (or copy and paste this URL into the address field of your browser), or visit <http://tportal.uspto.gov/external/portal/tow> and enter the application serial number to **access** the Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable **response time period**. Your response deadline will be calculated from **12/18/2007**.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**